

NOTICE

This slip opinion is subject to formal revision before it is published in an advance sheet of the Ohio Official Reports. Readers are requested to promptly notify the Reporter of Decisions, Supreme Court of Ohio, 65 South Front Street, Columbus, Ohio 43215, of any typographical or other formal errors in the opinion, in order that corrections may be made before the opinion is published.

SLIP OPINION NO. 2008-OHIO-1591

THE STATE OF OHIO, APPELLANT, v. MUTTER, APPELLEE.

[Until this opinion appears in the Ohio Official Reports advance sheets, it may be cited as *State v. Mutter*, Slip Opinion No. 2008-Ohio-1591.]

Certified question answered and court of appeals' judgment affirmed on the authority of Hyle v. Porter.

(Nos. 2007-0637 and 2007-0639 — Submitted March 12, 2008 — Decided April 9, 2008.)

APPEAL from and CERTIFIED by the Court of Appeals for Montgomery County,
No. 21374, 171 Ohio App.3d. 563, 2007-Ohio-1052.

{¶ 1} The certified question is answered in the affirmative and the judgment of the court of appeals is affirmed on the authority of *Hyle v. Porter*, 117 Ohio St.3d 165, 2008-Ohio-542, ___ N.E.2d ___.

MOYER, C.J., and PFEIFER, LUNDBERG STRATTON, O'CONNOR, LANZINGER, and CUPP, JJ., concur.

O'DONNELL, J., dissents.

SUPREME COURT OF OHIO

Mathias H. Heck Jr., Montgomery County Prosecuting Attorney, and
Johnna M. Shia, Assistant Prosecuting Attorney, for appellant.
